THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23984 OF 2005

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Dt:15.11.2005

Between:

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P.Mahaboob Jhoney

… Petitioner

and

The Regional Manager, APSRTC and another

… Respondents

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THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23984 OF 2005

ORDER:

The petitioner is working as a Conductor in the Andhra Pradesh State Road Transport Corporation. On 01.05.2003, he was conducting a bus service from Giddalur to Secunderabad. The bus was checked and it was found that the petitioner issued two tickets of Rs.7/- each to a passenger after collecting the fare of Rs.57/-. On the basis of the check report, disciplinary proceedings were initiated against the petitioner by the Depot Manager. Through his order, dated 04.08.2003, the Depot Manager removed the petitioner from service.

The petitioner preferred an appeal before the Divisional Manager, the second respondent herein. On 17.09.2003, the second respondent passed an order, modifying the punishment of removal from service to the one of deferment of two annual increments for a period two years with cumulative effect and directed reinstatement. The petitioner was since reinstated into service. Challenging the punishment of deferment of increment, the petitioner filed a review before the Regional Manager, the first respondent herein. The review was rejected through order, dated 27.02.2004. The same is challenged in this writ petition.

Sri V.Vishwanatham, the learned counsel for the petitioner, submits that the petitioner issued two tickets of the denomination of Rs.7/- to the passenger in question by mistake, instead of giving one ticket of denomination of Rs.50/- and the other of Rs.7/-. He contends that the tickets were similar in appearance and were placed on the same side in the tray and on account of rush of the passengers, the petitioner issued the ticket in the said manner and that he did not entertain any *mala fide* intention.

The learned standing counsel for the respondents, on the other hand, raises an objection as to the very maintainability of the writ petition. He also contends that the second respondent took a lenient view and directed reinstatement of the petitioner with the least plausible punishment, the circumstances warrant.

The petitioner has been removed from service by the Depot Manager on the basis of an enquiry report, wherein the charge levelled against the petitioner was held proved. The charge related to issuance of two tickets of Rs.7/- each to a passenger from whom the fare of Rs.57/- was collected. The Depot Manager took the same into account and found that there was serious dereliction of duty on the part of the petitioner. Accordingly, he directed removal. In the appeal preferred by the petitioner, the second respondent has taken a lenient view and directed reinstatement of the petitioner. The punishment of stoppage of two increments for a period of two years with cumulative effect was imposed. Having regard to the nature of the charge against the petitioner, it cannot be said that the order passed by the second respondent is unreasonable or disproportionate. This Court does not find any basis to interfere with the same.

The learned counsel for the petitioner submits that the petitioner was not inflicted with any punishment on earlier occasion and that the stoppage of two increments

with cumulative effect would have very serious impact on the pay structure.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing that in case the petitioner has not been inflicted with any punishment earlier to the present set of proceedings, the stoppage of two annual increments shall be treated as without cumulative effect. If the petitioner has been imposed any major penalty on the previous occasion, the present order shall hold good. In the event of the stoppage of increments becoming without cumulative effect as indicated above, the petitioner shall be entitled to the corresponding monetary benefit only with prospective effect.

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15.11.2005

kdl